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charged against the prisoner in this case." This case, therefore, is not in conflict with the two former cases. If, in the instant case, the defendant had been present when the violence was done to the co-defendant, this case would be similar to the cases of *State v. Lawson* and *Brister v. State* supra. But all that could be gained by being present is knowledge. This he has gained in some other way. It is immaterial how he got it. And the fact that he had such knowledge at the time when he made his confession under circumstances similar to those under which his co-defendant confessed was relevant and material in determining whether or not there was such an inducement that there was a fair risk of a false confession.

EVIDENCE.—PHYSICAL EXAMINATION OF PROSECUTING WITNESS.—Defendant was indicted for rape. When the case was called for trial he demanded a physical examination of the prosecutrix by a competent physician. The demand was denied by the court and exception allowed. *Held*: "In view of the unsatisfactory character of the testimony of the child witness and the fact that there is a direct conflict in her testimony and that of the only other witness produced by the state, we think that the court erred in refusing the defendant's demand that a physical examination of the child be made by a competent physician." *Walker v. State*, (Okla. 1915), 153 Pac. 209.

In some instances, the right of the court to compel a party in a civil case to submit to a physical examination has always been recognized. WIGMORE, § 2220. The decisions are in hopeless conflict, however, where that party is party plaintiff in a personal injury case, but the weight of authority would seem to recognize the existence of the inherent right here also. For a full discussion and review of the cases on this point see 1 MICH. LAW REV. 193, 277. The matter is regulated in some instances by statutory provisions. New York Code Civ. Pro. § 873. There are few cases wherein the courts have passed upon the right to compel a physical examination of the prosecuting witness. In cases of criminal slander, there is a tendency to refuse to order such an examination, *McArthur v. State*, 59 Ark. 431, 27 S. W. 628; *Bowers v. State*, 45 Tex. Cr. Rep. 185, 75 S. W. 299, and *Whitehead v. State*, 39 Tex. Cr. Rep. 89, 45 S. W. 10, (dictum); though these cases seem to be decided upon their particular facts, and the courts do not say that no inherent right to make such an order exists where the occasion demands it. In *King v. State*, 100 Ala. 85, 14 So. 878, a prosecution for an assault with a pistol, the court held that it was error to refuse to compel the prosecutrix to exhibit her arm to the jury, whereas in *Goodwin v. State*, 114 Wis. 318, 90 N. W. 170, also a prosecution for assault with intent to kill, the court held that there was no error in refusing to order a physical examination of the prosecutrix to determine whether or not she was afflicted with hysteria. These cases are not in conflict. Of the cases similar in nature to the instant case, *State v. Pucca*, 4 Pennewill (Del). 71, 55 Atl. 831 is in accord as is the dictum in *People v. Preston*, 19 Cal. App. 675, 127 Pac. 660. In *McGuff v. State*, 88 Ala. 147, 7 So. 35, 16 Am. St. Rep. 25, the decision of the lower court refusing to compel a physical examination of the prosecutrix by a committee of competent physicians at the request of the defendant was affirmed. In the course

of its opinion, however, the court said, "If such right exists at all, we should hold it to be a matter of judicial discretion with the trial court, to be exercised only in cases of extreme necessity, and not a subject of review on appeal to this court. * * * No such necessity is made to appear."

EXPLOSIVES—LIABILITY FOR INJURY CAUSED BY BLASTING WITHOUT NEGLIGENCE.—Defendant was constructing a dam and did a large amount of heavy blasting extending over a period of two years. Plaintiff, the owner of two lots with houses thereon situated some distance from the dam, brings his action for damages, alleging that the blasting was so powerful and so long continued that it had injured his buildings by loosening plaster, cracking the walls, breaking glass, etc., to his damage of \$3,000. At the trial it appeared that there had been no rocks or other material cast upon plaintiff's premises by the blasting, and that the injury was caused solely "from the air concussion or earth vibration" set in action by the blasting. Defendants then maintained that they were not liable unless shown to be negligent, but the court *held*, "that a showing of negligence is not essential to the liability of a party who uses the dangerous agency of powerful explosives in such place or in such manner that the natural and proximate result thereof is injury to the person or property of another," and the plaintiff recovered judgment for \$500 without any proof as to defendant's negligence. *Watson v. Mississippi River Power Co.*, (Iowa 1916) 156 N. W. 188.

The question raised in this case is not a new one although a case of first impression in Iowa. In holding the defendant liable, although the proof showed affirmatively that there was no negligence, Iowa has arrayed itself with the great weight of authority, numerically speaking. *Fitzsimmons v. Braun*, 199 Ill. 390, 59 L. R. A. 421; *Calton v. Onderdonk*, 69 Cal. 155, 58 Am. Rep. 556; *Hickey v. McCabe*, 30 R. I. 346; *Louden v. Cincinnati*, 90 Oh. St. 144, L. R. A. 1915E 356; *Gossett v. R. R. Co.*, 115 Tenn. 376, 1 L. R. A. N. S. 97; *Longtin v. Persell*, 30 Mont. 306, 65 L. R. A. 655, 104 Am. St. Rep. 723, 2 Ann. Cas. 198; THOMPSON, NEGLIGENCE, § 764. The decisions *contra* rest themselves on the ground of public policy and the ground that there is no technical trespass. In *Booth v. Rome, etc., Terminal Co.*, 140 N. Y. 267, 24 L. R. A. 105, 37 Am. St. Rep. 552, the leading case expressing this view, the court said: "The blasting was necessary, was carefully done, and the injury was consequential. There was no technical trespass. Under these circumstances we think the plaintiff has no legal grounds of complaint. The protection of property is doubtless one of the great reasons for government. But it is equal protection to all which the law seeks to secure. The rule governing the rights of adjacent land-owners in the use of their property seeks an adjustment of conflicting interests through a reconciliation by compromise, each surrendering something of his absolute freedom so that both may live." In accord are: *Brenner v. Dredging Co.*, 134 N. Y. 156, 17 L. R. A. 220; *Simm v. Henry*, 62 N. J. Law 486; *McGinnis v. Gas Co.*, 220 Mass. 575, L. R. A. 1915D 1080. In the case of *Louden v. Cincinnati*, *supra*, the court very aptly points out why the question of negligence should not be material, in the following words: "If the means employed will, in the